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OFFICE OF PETITIONS

In re Application of :
Aegerter, et al. :
Application No. 10/647,914 : ON PETITION
Filed: August 26, 2003 :
Attorney Docket No. 114183-20 (P00- :
0024US3) :

This is a decision on the reconsideration petitions, filed August 6, 2007, under 37 CFR 1.48(a) for correction of inventorship and under 37 CFR 1.183, requesting waiver of 37 CFR 1.48(a)(3), which requires submission of an oath or declaration signed by the actual inventors.

The petition under 37 CFR 1.48(a) is **granted**.

The petition under 37 CFR 1.183 to waive 37 CFR 1.48(a)(3) is **granted**.

The original petitions, filed January 8, 2007, were dismissed on May 29, 2007 for failure to submit an acceptable declaration. Any request for reconsideration of the May 29, 2007 decision was required to be filed within TWO (2) MONTHS from the mail date of the decision.

Extensions of time under 37 CFR 1.136(a) were permitted. The present reconsideration petitions were filed on August 6, 2007. Therefore, a one month extension of time is required to make the August 6, 2007 reconsideration petitions timely filed. Pursuant to petitioners' authorization, deposit account no. 50-3891 will be charged a \$120.00 one month extension of time.

A declaration, filed on August 21, 2003, listed four joint inventors: Brian K. Aegerter, Curt T. Dundas, Tom L. Ritzdorf, Gary L. Curtis, and Michael Jolley.

Petitioners renew their request that the Office excuse the absence of a signature for Mr. Michael Jolley, a previously signing joint inventor, on the replacement declarations that add Steven L. Peace as a joint inventor.

37 CFR 1.48(a) requires that an amendment to the named inventive entity be accompanied by: (1) a petition setting forth the desired change in inventorship, (2) including a statement from each person being added and from each person being deleted as an inventor that the error occurred without deceptive intention on his or her part; (3) an oath or declaration by each actual inventor

or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43 or 1.47; (4) the fee set forth in 37 CFR 1.17 (i); and (5) the written consent of any existing assignee, if any of the originally named inventors has executed an assignment.

The petitions of record comply with the above-listed requirements.

Petitioners have established that Mr. Michael Jolley has constructively refused to execute the replacement declaration after having received a copy of the application and the declaration. Mr. Jolley requested that his name be removed from the declaration in an e-mail sent September 14, 2006 to Attorney Keith V. Rockey. In view of the constructive refusal by Mr. Jolley to sign the declaration, it is agreed that justice would be served by waiving the requirement for his signature on the declaration. Taken together, petitioners have submitted an acceptable replacement declaration.

After the mailing of this decision, the application file will be returned to Technology Center A.U. 1746 for consideration of the RCE and amendment filed on October 30, 2007.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3230.



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Office of Petitions